

VZCZCXYZ0002
OO RUEHWEB

DE RUEHGV #0101/01 0491813
ZNY SSSSS ZZH
O R 181809Z FEB 10
FM USMISSION GENEVA
TO RHEFDIA/DIA WASHINGTON DC IMMEDIATE
RHEHAAA/NATIONAL SECURITY COUNCIL WASHINGTON DC IMMEDIATE
RHMFISS/CJCS WASHINGTON DC IMMEDIATE
RHMFISS/CNO WASHINGTON DC IMMEDIATE
RHMFISS/DEPT OF ENERGY WASHINGTON DC IMMEDIATE
RHMFISS/DTRA ALEX WASHINGTON DC IMMEDIATE
RHMFISS/JOINT STAFF WASHINGTON DC IMMEDIATE
RUEAIIA/CIA WASHINGTON DC IMMEDIATE
RUEHC/SECSTATE WASHDC IMMEDIATE 0255
RUEHNO/USMISSION USNATO IMMEDIATE 0168
RUEKJCS/SECDEF WASHINGTON DC IMMEDIATE
INFO RUEHGV/USMISSION GENEVA
RUEHKV/AMEMBASSY KYIV 0167
RUEHMO/AMEMBASSY MOSCOW 0171
RUEHTA/AMEMBASSY ASTANA 0167

S E C R E T GENEVA 000101

SIPDIS
DEPT FOR T, VCI AND EUR/PRA
DOE FOR NNSA/NA-24
CIA FOR WINPAC
JSCS FOR J5/DDGSA
SECDEF FOR OSD(P)/STRATCAP
NAVY FOR CNO-N5JA AND DIRSSP
AIRFORCE FOR HQ USAF/ASX AND ASXP
DTRA FOR OP-OS OP-OSA AND DIRECTOR
NSC FOR LOOK
DIA FOR LEA

E.O. 12958: DECL: 2020/02/18

TAGS: [PARM](#) [KACT](#) [MARR](#) [PREL](#) [RS](#) [US](#)

SUBJECT: SFO-GVA-VIII: (U) CONFORMING GROUP MEETINGS IN MOSCOW,
JANUARY 18-22, 2010 -- CORRECTED COPY

CLASSIFIED BY: Rose A. Gottemoeller, Assistant Secretary, Department
of State, VCI; REASON: 1.4(B), (D)

[1](#)1. (U) This is SFO-GVA-VIII-001.

[1](#)2. (U) Meeting Dates: January 18-22, 2010

Place: Ministry of Foreign Affairs, Moscow

SUMMARY

[1](#)3. (S) The U.S. and Russian members of the New START Treaty Conforming Group met in Moscow January 18-22, 2010. The meetings were held at the Ministry of Foreign Affairs and were conducted in a very collegial and positive atmosphere. The Conforming Group conducted a complete review of the Treaty articles and the first four sections of Part Five of the Protocol (Inspection Activities). In both cases, the Group identified some inconsistencies in the two texts and corrected some technical and linguistic differences. All changes by the Conforming Group were submitted ad-ref to the respective heads of delegation (HOD). The U.S. side was led by Neil Couch, VCI/SI, and included Marshall Brown, L/NPV, Brandy Buttrick, OSD, and Lt Col Rich Goodman, JS. The Russian side was led by Dmitry Lobach and included active participation by Col Vladimir Kamensky, Adm (ret) Valentin Kuznetsov, and Mr Mikhail Smirnov.

January 18 Meeting

14. (S) Russian HOD Antonov, along with Koshelev and Yermakov, attended the Conforming Group meeting at the beginning and stayed only long enough for Antonov to open the meeting by saying that he considered this to be the re-start of the negotiations, after both sides had a chance to do work during the break, and that this work would facilitate the process. He expressed his hope that the U.S. side would return to Geneva with more flexible positions and would be able to meet Russian concerns, and he asked that his message be conveyed to Washington. Antonov noted that the Russian side had conducted an analysis of the documents negotiated in Geneva and that there were still many "technical brackets" that, if not removed at this point, could become political obstacles to finalizing the texts for signature, and he noted that the Conforming Group's work could help make the text "more attractive" by removing some of those brackets, reminding the Group not to add any new ones. He recognized, too, that there were certain matters of principle that would assist in solving all remaining issues.

15. (S) Lobach, after introducing his delegation (besides the lawyers - but not Inna Kotkova - and translators/interpreters and Antonov's subordinates, there were two MOD representatives, as well as Smirnov and Kuznetsov), asked for U.S. thoughts about how the work would be structured for the rest of the week. Couch explained that the U.S. side was prepared to work as much as possible and asked how many meetings the Russian side was prepared to support. Lobach said that this decision would have to wait until the end of the day because there might be a need to consult within the Russian delegation, but that today's meeting - which began at 1100 - would have to close at 1300, and he proposed that the Conforming Group start with the Treaty and then proceed through the parts of the protocol in order. Couch responded that the U.S. side had understood that the Conforming Group would start with Part Five (Inspection Activities), and that this had been agreed between A/S Gottemoeller and Antonov. Lobach said that he did not know about that agreement and further that his side was not prepared to do that at today's meeting, since the MOD representative from the Inspection Working Group was not in attendance. The Conforming Group then began its review of the Treaty, starting with the preamble.

16. (S) In the preamble, the U.S. side agreed to a Russian proposal to repeat the date of NPT signature the second time that treaty was referenced and the Russians agreed to add the word "START" before "Treaty" where it was clear that it was the START Treaty being referred to. There were no proposed conforming changes in either Article I or Article II.

17. (S) Lobach and Brown discussed the use of the phrase, "subject to the limitations of the Treaty," as used in subparagraph 6(c) of Article III, and noted that the sides apparently had the same position on the end result - that the heavy bombers would no longer be subject to qualitative or quantitative limitations - but that this particular phrase is not always used to make that distinction. The two sides agreed to keep this understanding in mind as they continued through the text and to return to it a bit later. In paragraph 5 of Article III, the U.S. side proposed, and Smirnov and Kuznetsov agreed, that the word "deployed" before the words "heavy bomber" could be deleted, based on what had been agreed in the Conversion or Elimination Working Group as well as what had been agreed in the Definitions Working Group and in discussions on the three categories of heavy bombers.

¶18. (S) Based on a clearer understanding of the defined term "training launchers," the sides agreed to delete the words "of ICBMs or SLBMs" after the term "training launchers" in paragraph 7/6 of Article IV.

¶19. (S) Lobach asked why the U.S. could not agree to the Russian-proposed paragraph 9 of Article IV that prohibits joint basing of heavy bombers, noting that there was agreement on permitting joint basing contained in the agreed statements. Brown noted that the expression "unless the Parties agree otherwise," usually signifies that there would be a separate decision reached in the BCC or in an equivalent forum, typically after entry into

force, and in this case, the Russian proposal would appear to link the parties' agreement to do "otherwise" to the Agreed Statement, which seemed a bit odd. After a long monologue by Kuznetsov extolling the virtues of the Russian formulation, as well as the explanation of the importance of its retention in the Treaty article, the U.S. side agreed to come back to this later but that it would have to be sent to those more directly involved in the substance of this matter.

¶10. (S) Lobach, in preparation for the upcoming meeting on Part Five, noted that most of the sections in that Part had already gone through Conforming Group meetings and he proposed further that there were too many brackets in two of the sections, so those did not need to go through the conforming process yet. Couch countered that it was important to make sure that the brackets and other purely technical issues were identified and resolved before the negotiations resumed in Geneva, in order to avoid unnecessary confusion and delay, so he pressed for a full review of the text. Couch also noted that the U.S. side intended to have a new JDT ready for the opening of the next round in Geneva, and asked whether this was the Russian intention as well. Lobach responded that he was not clear about this and would have to discuss it with Antonov, but he would get back to Couch at their meeting on the following day. Lobach asked Couch for suggestions on the work schedule for the week. Couch responded that the U.S. delegation was prepared to begin just after breakfast and could work as long as necessary each day. Lobach responded that such a schedule would be difficult for him (and y he presumably included in his response the rest of the Russian members of this Conforming Group) because they could not dedicate that much time to conforming meetings since they still had other duties (unclear whether SFO-related or not). The sides agreed to start the meeting on January 19 at 1000, but it would last only until 1300 - Lobach indicated to Brown that he had another engagement in the afternoon - and the review of Part Five would begin on January 20.

¶11. (S) Following the meeting, Smirnov indicated that he was going to be leaving for Geneva on January 31. Lobach said that he was not certain about what he would be doing the following week (beginning January 25) nor was he certain about the resumption date in Geneva.

¶12. (S) Comment: Lobach and Kuznetsov were the primary interlocutors on the Russian side and both were in a positive, workmanlike mood.

January 19 Meeting

¶13. (S) Lobach opened the meeting by thanking the U.S. side for the good discussion on the previous day and the productive work

done. He introduced a third representative from the MOD - Col Kamensky - and noted the different interpreter (Gayduk). In response to Couch's question as to whether he had a chance to discuss with Antonov the proposal to exchange revised JDTs by the opening of the next session, Lobach admitted that he had been unable to get in touch with Antonov but would try to do so later in the day and would report Antonov's answer. He acknowledged that he supported the idea of developing new JDTs by the opening of the next session.

¶14. (S) Lobach asked whether the U.S. side had any commentary on paragraph 2 of Article V, noting that there were still elements in brackets. Couch responded that he had talked with A/S Gottemoeller about Article V and noted that she was intending to continue to work on this article with Antonov, and that the focus of the Conforming Group should be primarily to ensure that the brackets were correctly placed. He stated that in paragraph 3, however, there needed to be a tracking change to refer to subparagraph (c) vice subparagraph (a) of Article XIV/XII; Lobach agreed to make this change.

¶15. (S) Lobach asserted that there had been full agreement on paragraph 4 of Article V and noted that the Russian delegation had been surprised to receive the English language text that showed this paragraph as Russia-only proposed text. He noted that there should not be any brackets in this paragraph except for some "details." Couch cautioned about making changes to this text. Lobach responded that, in the Russian-language text, the words "of this Treaty" followed the word "signature," in Russian brackets, adding that this addition was logical because the reference to just "signature" would not be descriptive enough. Couch noted that this entire paragraph was in Russian brackets, and the phrase, "of this Treaty," was already present. Lobach argued that the final sentence was based on a U.S. proposal, and, as such, it should be in U.S. brackets if the first two sentences of the paragraph were to be considered Russian-bracketed text. Thus, there would be additional brackets in paragraph 4, to reflect the different positions of the sides. Couch demurred, saying that he did not believe that it was necessary to introduce additional brackets at this point, and he asked that he be given an opportunity to first check with Gottemoeller before any changes were made in this paragraph, and that he would do that this evening. Lobach eventually agreed to this outcome, although he appeared to want to conclude discussion of this matter at this meeting.

¶16. (S) Lobach then noted that there was inconsistent use of the conjunctions "and" and "or" between the two Russian and English texts in the first sentence of paragraph 4 of Article V, as a matter of translation, and asked whether these could be resolved at the Conforming Group level. Brown referred to paragraph 5 of Article V of the START Treaty, which had similar constructions using the expression "undertakes not to" in reference to two different obligations, and proposed that the English and Russian texts use that convention ("... undertake not to convert and not to use ICBM launchers and SLBM launchers"), stressing that this was just a conforming change and that ultimately it was up to Gottemoeller to decide the status of this entire paragraph. A similar change was made in the second sentence of this paragraph.

¶17. (S) The sides agreed not to make any conforming changes to Article VI at this time - it was totally in U.S. brackets. In Article VII/VI, Couch proposed tracking fixes to referenced articles in subparagraphs 3(a) and 3(b). The two sides also had an extensive - but inconclusive - discussion on the respective brackets in subparagraph 3(b): "inspection" vs. "inspection

activities," with the sides eventually agreeing that this was bound up in the treatment of conversion or elimination exhibitions/inspections, and whether such activities would be counted under a quota, and that once those issues were settled, the language could be easily agreed. Smirnov, Kuznetsov, Buttrick, and Goodman all participated in the discussion of this point. (Begin comment: The U.S. Conforming Group in Moscow notes that a possible solution to the differences in subparagraphs 3(a) and 3(b) of Article VII/VI would be to delete paragraph 3 in its entirety. The concepts covered in subparagraphs 3(a) and 3(b) are already addressed elsewhere in the Treaty and do not need to be repeated here. End comment)

¶18. (S) Turning to Article VIII, Couch noted that Gottemoeller had provided a new text of Article VIII to Antonov, and asked, on her behalf, whether the Russian side had any comments to make on it. Lobach responded that he was aware of the new text but that the Russian side was not yet prepared to respond to it but it was under study. He then asked whether there was any sense of going through any of Article VIII at this point, for conforming purposes. Couch noted that some of the paragraphs were identical between what Gottemoeller had provided and what was in the December 19 JDT, and it would be worthwhile to review those to see if there were any conforming issues to raise. In that respect, he noted that the U.S. would like to add a reference to Part Four of the Protocol to paragraph 2 of Article VIII, to which Lobach agreed. Returning to paragraph 1, Lobach said that the Russian side could accept the shortened version of that paragraph (as contained in the Gottemoeller paper), although with a change in the English to reflect the Russian reference to the Protocol, i.e., "Part Two of the Protocol to this Treaty" vice "Part Two of its Protocol," to which Couch agreed.

¶19. (S) The sides agreed to replace the language in U.S. bracketed paragraphs in Article VIII with the newly tabled version of those paragraphs, and the final paragraphs were renumbered so that the paragraph on geographical coordinates had an agreed number rather than two bracketed ones. The sides discussed the rationale for the bracketed texts in the paragraph on geographical coordinates, with the Russian side noting that this entire paragraph had been agreed for a long time and only in the December 19 JDT did this text appear in Russian-brackets. The U.S. side agreed, ad ref, to drop the brackets around "relating to data contained in Part Two of the Protocol to this Treaty" after the words "geographical coordinates" and around "provided by the Parties pursuant to this Treaty" after the words "site diagrams."

¶20. (S) Couch noted that Article IX/VIII was going to be discussed at the Gottemoeller-Antonov level, which caught Lobach by surprise:

he commented that the Russian side considered this article to be agreed. Brown made a conforming fix to change "which" to "that" in the penultimate clause of that sentence. Lobach, after some discussion of the fact that this would not change the Russian text, agreed that the English change was acceptable. Turning to Article X/IX, Lobach asked whether the U.S. side was prepared to drop "test" in front of "launches." Smirnov explained the difficulty of the use of the word "test" in front of "launches," claiming that it referred only to testing of new missiles and not other kinds of launches. Brown responded that a more accurate word, and the one used in START in this same context, was the defined term "flight test," and asked whether the Russian side could accept that. The U.S. noted further that the term "telemetric information" was also a defined term and included within it the concept of flight test, so in fact this whole provision could be simplified even further by just using the term "telemetric information" and to drop "on ((test)) launches of IBCMs and SLBMs." At this point Kuznetsov said that this whole question should be left for the resumption of the new session in Geneva, and Lobach added that this language had come from his president, so it would be difficult to change.

¶21. (S) In Article XI/X, the main discussion was on paragraphs 2 and 3. In paragraph 2, the question was how to treat the reference to "deployment areas" - in the Russian language text the words were in Russian brackets, while they were unbracketed in the English text. It was recognized by both sides that this question hinged on discussion of the term "basing area" that had not yet been completed, and it was ultimately agreed to have this become U.S. bracketed text since the Russian side proposed to delete it. In paragraph 3, Couch noted that the U.S. side was prepared to provide the names of the two U.S. facilities, and he did so. Smirnov argued that this whole paragraph belonged in Part Four of the Protocol and not in the Treaty, and that its substance was agreeable to the Russian side, while the U.S. side noted that its inclusion was needed in this article.

¶22. (S) Lobach proposed that the sides meet on January 20 from 1500 to 1800, although there might be a chance to extend it a bit. He noted that there was not much left on the Treaty articles, so there should be no problem getting to Part Five of the Protocol by January 21, saying that he recognized that Part Five was a U.S. priority. And he proposed that the entire day, both morning and afternoon, would be available for the Conforming Group meetings on January 21.

January 20 Meetings

¶23. (S) Lobach opened the meeting by raising the issue of how best to continue the work of the Conforming Group, noting that the MFA had agreed to send Russian members of the Conforming Group, in approximately the same composition as was present at this day's meeting, to Geneva earlier than the rest of the Russian delegation,

which was scheduled to depart Moscow on January 30 and 31. The Russian Conforming Group members would leave Moscow on January 27 and be prepared for three full days of meeting, from January 28 through January 30. He requested that the U.S. side arrange for meetings during those three days because of the absence from Geneva of the rest of his delegation during those days; Couch responded that the U.S. side would look into that possibility.

¶24. (S) Couch said that he had already received a call from A/S Gottemoeller concerning the willingness of the Russian side to continue the conforming work and that she had been very pleased with that news. Lobach apologized for not being able to hold Conforming Group meetings in Moscow on January 25 and 26. Couch commented that he had kept Gottemoeller apprised of what had been happening during the past two days of Conforming Group meetings and stated that she had been very satisfied with the work that had been done so far. Couch also recalled the governing rules of the Conforming Group, which the sides had discussed when this work had begun in Geneva, and Lobach confirmed that he shared the same understanding. At Embassy Moscow request, Couch handed over a draft list of issues to be discussed at the Mullen-Makarov and Jones-Prikhodko level meetings. He also handed over a list of definitions that the U.S. believed represented agreement of defined terms to be deleted. Since these deleted definitions had been discussed late in the previous session, the deletions were not reflected in the December 19, U.S.-proposed draft JDT; Kuznetsov responded that the Russian side may be proposing that some of the terms identified for deletion be retained, particularly if they are part of another term, but that this discussion was for a later time.

¶25. (S) Lobach remarked that he had also been providing progress reports to Antonov on the results of our meetings, and his reaction was similar to what Couch explained had been Gottemoeller's. Lobach commented that this had been useful work, and that the Russian side was prepared to organize Conforming Group meetings on January 22 as well; agreement was reached on a morning meeting, from 1000 - 1300. He also asked what Parts to the Protocol the U.S. side thought should be addressed after the Treaty and Part Five (Inspection Activities) of the Protocol had passed through conforming. Couch proposed that the sides turn at that point to Part Three (Conversion or Elimination). Lobach confirmed the schedule for the next day - January 21: 1100 - 1300, and 1500 - 1800.

¶26. (S) Couch asked to return to paragraph 4 of Article IV, and, explaining that he had been directed to do so by Washington, proposed the addition of the words, "or modified," in the third sentence. Lobach responded that the Russian side would take this proposal for study but observed that he was not aware of any use of that term elsewhere in the Treaty. In any case, he noted, the two heads of delegation were working on this entire article, and he proposed that the new language appear in U.S. brackets, while commenting that the entire final sentence should be in U.S. brackets anyway because the first two sentences had come from a Russian proposal, the third sentence in that proposal had been dropped in favor of new U.S. language, which now, for some reason, appeared in Russian-only brackets, and he asked that the U.S. side

re-consider its position stated on the previous day to have no U.S. brackets in this paragraph.

¶27. (S) Couch said that he understood Lobach's logic but that Gottemoeller had instructed him not to insert or remove any brackets until she had a chance to talk with Antonov. Lobach countered with a proposal to allow the brackets around the entire paragraph removed but bracket, as U.S.-proposed text, only "or modified." Couch also said that this was not what he had been instructed to do by Gottemoeller. Lobach commented that paragraph 4 reflected joint work on the part of both delegations and he wanted that fact identified in some way in the text, perhaps by having the whole paragraph in brackets but without any number, but he also wanted to identify separately the text tabled at this meeting in some manner because it was new. Couch proposed that the whole paragraph remain in brackets but with a note at the beginning of the Protocol text to explain what an unnumbered bracketed text meant, i.e., that it was work still being undertaken by the heads of delegation. Lobach agreed to this solution.

¶28. (S) Smirnov asked for the difference between "converted" and "modified". Couch then presented a brief history of the issue as it played out in the JCIC, based on modified launchers at Vandenberg that had not been "converted" in accordance with START procedures but had been removed from accountability as ICBM launchers. Smirnov responded that the reason that he asked this question was that there was an entire Part in the Protocol that addressed the issue of conversion of ICBM launchers and it had to do with making certain technical changes in the construction of a silo, which, in his view of what had occurred at Vandenberg, had constituted practically a conversion. He added that having two terms in this context would create an ambiguous situation. Kamensky added that this issue had never been finally resolved in the JCIC.

¶29. (S) Turning to paragraph 2 of Article XII, Couch proposed to delete the words "for deployed heavy bombers equipped for nuclear armaments" after the words "air base." Kuznetsov initially opposed the U.S. proposal, claiming that it would complicate inspection of

air bases for heavy bombers not equipped for nuclear armaments as well as air bases where there was joint basing, but he eventually recognized that the defined term, "air base," had made redundant the words that the U.S. side proposed for deletion. Couch indicated that Type One inspections related only to deployed heavy bombers and therefore it was appropriate to delete these words. Lobach indicated that he would get back to Couch on this proposal after consultation with other experts on his delegation. In paragraph 3, Brown proposed the addition of "Section X" to the reference to Part Two, for both "facilities subject to inspection" and "formerly declared facilities," noting that there were so many facilities listed in Part Two that there had to be more precision. Brown commented that, if the Russian side agreed to this formulation with respect to "formerly declared facilities," it might be able to drop its own bracketed language "subject to the Treaty," and then the two references would be consistent. Lobach indicated that he would have to get back to the U.S. side on this proposal as well.

¶30. (U) Lobach proposed that the sides not discuss Article XIII, which was entirely in U.S. brackets. Couch responded that he planned to at least change the references from "Notification Protocol" to "Part Three," since the Notification Protocol reference was left over from START.

¶31. (S) There was a lengthy discussion of Article ((XIV))1 ((XII))2, primarily involving paragraph (c). There were some conforming edits made that did not involve policy decisions. In the chapeau of the Article, both sides agreed to delete the parenthetical "(BCC)." In paragraph (b), the Russian delegation tentatively agreed to add the word "such" after the word "upon" since it was missing in the Russian text. And in the last line of paragraph (c), the U.S. delegation clarified that the correct reference to the Section of Part Four of the Protocol was Section VII.

¶32. (S) Couch asked Lobach to explain why Russia could not accept the word "relevant" in paragraph (c) of Article XIV regarding new kinds of strategic offensive arms (SOA). Lobach said that, in Russia's view, the word "relevant" would not allow for a situation in which a Party developed a new kind of strategic offensive arm that would apply to all provisions of the new treaty: the Russian side believed that the word "relevant" restricted application to just a portion of the treaty. Couch responded that, on the contrary, the word "relevant" provided both parties the most flexibility in that it could apply, as appropriate, to none, some, or all of the provisions of the treaty. Smirnov said that, in his view, that word would not capture the development of new SOA for which there were no current provisions. In such a case, the parties would need to change the Treaty to accommodate this new kind of SOA. Lobach stressed that the Russian delegation had the same view of paragraph (c) as the U.S. delegation but that it still believed the word "relevant" was too restrictive in its application. Brown asked if the Russian definition of the word "application" might be contributing to this misunderstanding. Lobach responded that issue was with the word "relevant."

January 21 Meetings

¶33. (S) Couch handed over a draft "working text" of the Treaty, emphasizing that this was not an official JDT and was being handed over to assist the Russian side in developing its JDT. This would allow the Russians to review the English to make sure that all the positions have been captured correctly. Lobach thanked Couch for the draft, noting that it was very clear what had been added and

changed and this would greatly facilitate the work by the Russian side. He added that the actual JDTs would be developed in Geneva and would be dated January 31. Couch agreed and asked whether a working text in Russian could be provided to the U.S. side; Lobach

indicated that he would be able to do it in the afternoon.

¶34. (S) The Conforming Group began a review of Part Five of the Protocol (Inspection Activities). There were no changes to Section II. As proposed by the Russian side, and as agreed, in the title of Section II, the words, "Provisions Concerning the" were removed, so that the title would read, "Legal Status of Inspectors and Aircrew Members," to conform to the style of the titles of other sections. In paragraph 3, it was agreed to rephrase the first sentence to read, "Each Party shall have the right to amend the lists of its inspectors ..." vice "... amend its lists of inspectors ..." In paragraph 4, the phrase "city, state or oblast, and country of birth" was changed to "place of birth (city, state or oblast, and country)." In the second sentence of paragraph 5, the phrase "the lists of inspectors or aircrew members" was changed to "the lists of inspectors and aircrew members," and it was noted by the U.S. side that the Russian word for "ensure" did not appear in the Russian language text, while it did appear in the English text. After explanation by the chief translator on the Russian side, Artem'yev, it was determined that the word was not needed in Russian to convey the idea contained in the English text. In the third sentence of this paragraph, concerning the slight difference in meaning between the English and Russian texts concerning visas and appropriate documents being "valid" for a period of time (the Russian word means literally "issued"), Lobach acknowledged that he and Artem'yev had discussed this very difference while still in Geneva and they had agreed at that time that the legal effect of the English and Russian texts was identical and therefore the Russian side had not raised it in conforming; the U.S. side agreed that this was not an issue that it intended to raise either. It was agreed, though, that the words, "at least 24 months," be changed to "no less than 24 months."

¶35. (S) In paragraph 6, Lobach asked whether the expression "under indictment" meant that the individual had ever been indicted or that the individual was under indictment at that particular time, noting that in the Russian text it appeared that the meaning was "had ever been indicted." Couch explained that an indictment could be dropped, or the individual could be acquitted, and therefore the reference should be understood as "currently under indictment." Lobach agreed and said that the Russian text would be changed to reflect that meaning. Lobach also asked that the word "individual" (vice "person") be used throughout this paragraph, in order to reflect the Russian language text, as long as the meaning was meant to be the same; it was agreed that the use of the word "person" was not meant to convey a different meaning. It was also agreed to delete the words "the conduct of" in the phrase, "...violated the conditions governing the conduct of inspections activities...", contained at the end of the first sentence, on the grounds that they were unnecessary in this context.

¶36. (S) Lobach noted that there were several references to the Vienna Convention on Diplomatic Relations (VCDR) that should include the date of signature, which corresponded to Russian treaty practice: that change was made in subparagraph 7(b) and in paragraph 8. In subparagraph 7(d), the two conjunctions in the phrase, "without payment of any customs duties or related taxes or charges" were changed to "and." Brown noted that, in subparagraph

7(f), the language of the VCDR was not quoted correctly in Russian concerning the phrase "respect the laws," explaining that the Russian word in that subparagraph meant "observe," and he handed Lobach a copy of Article 41 of the VCDR in Russian. Lobach agreed that the Russian word used in the VCDR should be used in subparagraph 7(f). Lobach also noted that two different words in

Russian were used to translate the word "regulations" (in subparagraph 7(d) and in subparagraph 7(f); the latter came from the VCDR). Lobach said that he would do more research on this, but there would be no need to change the English. In paragraph 8, the word "Following" was changed to "Upon," to more closely correspond to the Russian text, and, at Lobach's insistence, the word "apply" was changed back to "subsist," to correspond to the precise wording of the VCDR.

¶37. (S) In paragraphs 2 and 3 of Section III, Lobach commented that two different Russian words were used with respect to the transportation of inspectors, and he would change the text to use only one word, "perevozka." At the end of paragraph 3, the sides agreed to replace "or their aircrews" with "and to their aircrews." In paragraph 5, the sides discussed whether there were in fact "procedures" used to file flight plans in Part Four of the Protocol (Notifications), and, seeing that there were none, agreed to delete the words, "the procedures specified in" in the phrase, "...shall be filed in accordance with the procedures specified in Part Four of this Protocol." In paragraph 6, it was agreed that the common term should be "security protection," and that would be reflected in the text in both languages.

¶38. (S) The sides started and finished Section IV of Part Five during the afternoon meeting of the Conforming Group.

¶39. (S) In the second sentence of paragraph 1 of Section IV, the Russian side argued that there was no equipment to be brought in by inspection teams that would be related to anything other than inspections, so the U.S. proposal to broaden this to "inspection activities" would have to be bracketed. After some discussion that there could be equipment for exhibitions, the sides agreed to simply bracket the two positions. Lobach admitted that he did not have much leeway in trying to resolve this particular issue and that, since this issue appeared throughout Part Five, it would be best not to spend much time discussing it, explaining that this was a special situation.

¶40. (S) Several grammatical changes were made in English in the first sentence of paragraph 4. In the third sentence of that paragraph, concerning the purpose of the "examination" of equipment, Lobach asked what the expression "unconnected with the requirements of inspections" meant, focusing in particular on the word "requirements," and asked whether this really meant the "tasks" or "goals" of the inspections. After some discussion, it was agreed to accept the word "tasks", although "inspection activities" would appear in U.S. brackets and "inspections" in Russian brackets. In the penultimate sentence of this paragraph, the phrase "site where inspection activities are to take place" was replaced with the term, "inspection activity site." In paragraph

5, the Russian-bracketed reference to a paragraph and Section of Part Four was deleted, and the term "inspection activity site" was substituted for "site of the inspection activity."

¶41. (S) In subparagraph 6(a), it was agreed to accept the phrase, "prior to the departure of the inspection team to the inspection site," which had been in the Russian text but not included in the English text. There was also confusion over the consistency of the use of the terms "located at" and "based" contained in the chapeau and the subparagraphs. This confusion called into question the information that is to be provided by the in-country escort. The sides also discussed at length the differences between the English and Russian texts of subparagraph 6(b), where the 30 percent criterion was based on SLBM launchers in the English and on SSBNs in the Russian, and it was agreed that this should go back to the working group for discussion. A minor conforming change was made

in subparagraph 6(c). In paragraph 7, Lobach accepted the inclusion of the word "only" with respect to coverage of inspection team activities by mass media "only" at the POE.

January 22 Meeting

¶42. (S) In paragraph 2 of Section V, the sides agreed to change the phrase, "during the entire period of stay in the territory of the inspected Party" to "during the entire in-country period." In paragraph 3, Brown explained what the U.S. side had attempted to accomplish in its earlier proposal, i.e., to more precisely describe the legal relationship between the inspecting Party and the inspectors, and Lobach acknowledged his full agreement with the purpose of the U.S. proposal but was not convinced that the language was sufficient. After some discussion, it was agreed to add the words, "The inspecting Party shall ensure that its inspectors," in lieu of "Inspectors" in the first sentence and "they" in the final sentence. Lobach also asked that the consent be "express" between the inspecting Party and the inspected Party as well as between the inspectors and the inspecting Party.

¶43. (S) In paragraph 5, the sides discussed the extent to which the restriction on interference with ongoing activities applied to the "inspection site" or to the "inspected facility." It was agreed that it should relate to the broader of the two; the inspected facility. It was also agreed to reformulate "ongoing activities" to read "activities being conducted," in the second sentence of this paragraph. It was also decided to retain the broader reference as well to the "Protocol," rather than just this "Part," at the beginning of the second sentence. Finally, the Russian side agreed to accept "inspection activity site" in the penultimate sentence.

¶44. (S) In the third sentence of paragraph 6, the sides discussed whether the clause, "Throughout the period of stay at the point of entry, or at the inspection activity site," could be replaced by "During the entire in-country period." The change was made, but Lobach cautioned that he was not sure that this could be done within the authority of the Conforming Group. In the penultimate sentence, the phrase, "at the inspection site," was added after the words, "inspection team subgroups." In the unnumbered paragraph following paragraph 6, concerning lighting, the sides agreed to add the phrase, "at the inspection activity site," after the words, "lighting for inspectors," and the reference was broadened from "procedures provided for in this Part" to "... in this Protocol."

¶45. (S) In paragraph 8, Lobach agreed to accept the U.S. proposed formulation "in accordance with," and Couch accepted the Russian-proposed word "kind" rather than "type" with respect to inspection activities. In paragraph 9, the sides separately bracketed "inspection activity" and "inspection" in the first and second sentences, but the Russian side agreed to the title of the report in the final sentence: "inspection activity report," as it had already been agreed in the Inspection Working Group. In the chapeau of paragraph 10, Lobach asked what the word "declared" meant in front of the words, "technical data." The sides discussed the defined term, "declared data," and noted that it included technical data, but acknowledged that the term, "declared technical data" was not used. The solution that was accepted was to delete the word "declared" in this case. The sides concluded the meeting after reviewing paragraph 11, with no comments.

¶46. (S) Lobach noted at the end of the five days of Conforming Group meetings in Moscow that it had been a good idea on the part of the U.S. side to hold these meetings prior to the resumption of the negotiations in Geneva and that this would greatly facilitate the work of the delegations.

¶47. (U) Documents exchanged.

- U.S.:

-- U.S. Delegation Working Text of the New START Treaty Articles, dated January 21, 2010.

-- U.S. Delegation Paper on Part One - Terms and Their Definitions, Dated January 19, 2010.

-- U.S. Delegation Paper on Article V, Dated January 20, 2010.

-- Draft List of Issues to be Discussed at the Mullen-Makarov and Jones-Prihodko Meetings, Dated January 20, 2010.

- Russia:

-- Russian Working Text of the New START Treaty Articles, dated January 21, 2010.

¶48. (U) Participants

U.S.

Mr. Couch

Mr. Brown

Mr. Buttrick

Lt Col Goodman

Mr. Silberberg (Embassy Moscow)

Mr. Donnelly (Translator)

Mr. Lychyk (Translator)

RUSSIA

Mr. Lobach

Mr. Artemiev

Mr. Ivanov

Mr. Vorontsov

Ms. Fuzhenkova

Ms. Melikbekyan

Mr. Voloskov

Col. Kamensky

Mr. Novikov

Mr. Pishchulov

Mr. Smirnov

Adm. Kuznetsov

Ms. Zharkikh

Mr. Gayduk (Int)

Ms. Evarovskaya (Int)

149. (U) Gottemoeller sends.
GRIFFITHS